



CITY OF FOUNTAIN VALLEY

CITY COUNCIL

COUNCIL/AGENCY ACTION REQUEST

To: Honorable Mayor and
Members of the City Council;
Successor Agency, Housing Authority

Agenda Date: July 19, 2016

Subject: Placement of a One Cent (1%) Sales Tax (Transactions and Use) Measure on the November 8, 2016 General Election Ballot for Voter Consideration

EXECUTIVE SUMMARY:

The State of California has taken over \$116 million in local tax dollars from Fountain Valley since 1992 and the City continues to lose another \$3 million dollars every year in General Fund property tax revenues and about \$8 million dollars in Redevelopment Tax Increment. In addition, the City's General Fund is required to absorb another \$1.2 million in annual Redevelopment obligations due to the dissolution of Redevelopment Agencies by the State in 2012.

For the last seven out of nine years, the City has used reserves to balance its General Fund operations. Since 2012 the City has been forced to adopt General Fund budgets with structural deficits. For the Fiscal Year 2016-17 that structural operating deficit has grown to \$1.765 million. The City's recently updated 20-year long term financial plan shows the City will continue to incur growing structural deficits each year and will run out of operational General Fund cash in 2019-20. The undesignated fund balance will go from \$0 to **(\$51.9 million)** by 2025-26. To balance future budgets, major cuts to vital City services will be necessary including public safety and/or the implementation of other major revenue enhancement(s).

Since 2008 the City has made significant cuts in operational costs including a reduction of 36 full-time staff positions; contracting out City services; implemented three tiered pension and medical health programs; cost reductions in fire management and required employee pickup of pension and medical costs; and city staff received no cost of living increases for over eight years. The 2016-17 adopted budget has further service cuts including the elimination of funds for street, park and public building repairs and maintenance. Staff also delayed the purchase of police vehicles and full funding of capital equipment replacement fund. Up to this point, no cuts have been made to critical public safety services or programs.

Over the last four months, financial information has been circulated to the residents and businesses through mailers, Fountain Valley Living Magazine, and numerous community and neighborhood meetings throughout the City. The goal was to provide clarity about the City's financial challenges and to solicit input from community members on their priorities for City

services and also receive feedback on potential solutions including significant reductions in critical City services and/or possible revenue enhancement options.

In the 2013 Strategic Plan, the City Council adopted a goal to “achieve financial stability”. The City also desires “Fiscal Stability” as one of its core values. During the semi-annual Strategic Planning session on April 7, 2016 a commitment was made to evaluate ways to develop a “Fiscal Sustainability” solution(s) for Fountain Valley. This Staff report details the various options available to the City Council to address the structural deficit and provides the City Council and the community with an opportunity to resolve the City's financial condition and existing structural deficit by placing a one cent sales tax (transaction and use tax) ballot measure to the voters at the November general election not to exceed twenty years.

DISCUSSION & FINANCIAL ANALYSIS:

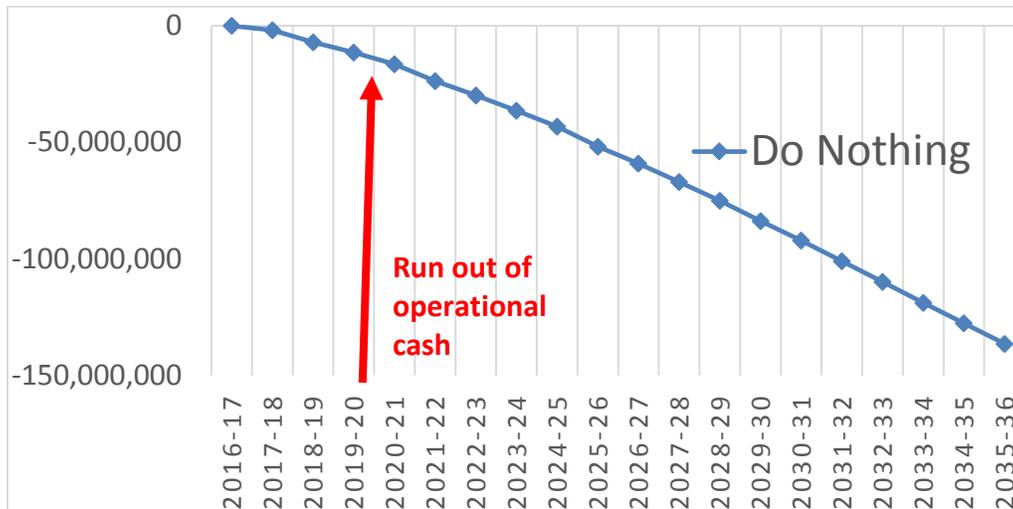
History

The State of California has taken over \$116 million in local tax dollars from Fountain Valley since 1992. The City will continue to lose another \$3 million dollars every year in General Fund property tax revenues due to the State's required shift of Education Revenue Augmentation Fund (ERAF) and about \$8 million dollars in Redevelopment/Housing Tax Increment.

In 2012, the City was forced to return to the State of California \$47.6 million of redevelopment and housing tax increment that has been legally collected for critical economic, redevelopment and housing activities in Fountain Valley. In addition, the dissolution of Redevelopment Agencies by the State has required the City's General Fund to pick up prior RDA obligations of \$1.2 million each year starting in 2012. These obligations include debt service on bonds that were sold to build the Senior Center and expansion to the City's sports park.

For the last seven out of nine years, the City has used reserves to balance its General Fund operations. Since 2012 the City has been forced to adopt General Fund budgets with structural deficits. For the Fiscal Year 2016-17 that structural operating deficit has grown to \$1.765 million. The City recently updated a 20-year long term financial plan that shows the City will continue to incur growing structural deficits yearly and will deplete the operational General Fund cash by 2019-20. The undesignated fund balance will go from \$0 to **(\$51.9 million)** by 2025-26 & **(\$136.4 million)** by 2035-36. The 2017-18 long term plan estimates that the General Fund will have an undesignated fund balance of **(\$1.9 million)** after using the balance of the Budget Stabilization fund. To balance future budgets, major cuts to vital City services is necessary, including public safety and/or the implementation of other major revenue enhancements.

General Fund Undesignated Fund Balance



The recommended funding for the 2016-17 Fiscal Year Operating Budget does not maintain all of the prior service levels. Although no new services have been added, there are existing services or programs that have not been funded due to limited revenues. As the 2016-17 Fiscal Year budget was in the final adoption stage, Finance staff worked on updating the City’s Ten-Year Long Term operating financial plan and developed a recommended 20-year fiscal sustainability financial plan which was presented to the City Council at a workshop on June 14, 2016.

Reality Check

As we evaluate our short and long term fiscal challenges it is important to note the following:

- If we do not address the identified fiscal problems, the structural deficit will continue to grow
- The City will run out of cash if a permanent solution is not implemented
- Waiting for “things to get better” is not an option, since we are at the economic peak now (current recovery is two years longer than the average recovery period)
- City does not have any undesignated reserves and only has limited designated reserves
- City has already made significant cuts in service levels and further cuts will impact public safety and other vital City services

Cost Reductions

The City has faced financial challenges since the recession in 2008. In order to combat those challenges the City and City Council have been proactive in addressing the problem by making significant cuts in operating costs, including:

- Reducing full-time staff from 257 to 221

- Implementing a three tiered retirement structure (Fountain Valley was one of the first to create a second tier before the state mandated pension reforms in 2012)
- Requiring all City employees to contribute to their own retirement ranging from 6.25% to 12%.
- Reduced healthcare subsidies for City employees and elimination of retiree medical for all new employees
- No employee Cost of Living Adjustments (COLAs) for eight years
- Contracting out City services including building permitting & inspections; tree and landscaping services; janitorial; utility billing printing and mailing; fire investigations; MetroNet fire dispatch; and street sweeping.
- Reduced costs through a single Fire Chief / Battalion / Ops Chief position
- Pension Side fund refinancing – reducing annual payments to help offset increases in CalPERS unfunded liability

Volunteers and Community Foundation

Primarily through limited grants and the formation of the nonprofit Fountain Valley Community Foundation, many of the City's recreation and community services special programs and events have continued. The Foundation is key to raising funds through donations and community sponsorships and providing volunteers which allow the City to have quality community events including the annual Summerfest; concerts & movies in the park; Easter egg hunt; Senior Expo; Car and Truck Show; Christmas Tree Lighting; and Senior Nutrition Program. In addition, as a result of the Police RSVP and Fire FIRST programs, thousands of volunteer service hours are given to the City to support both vital public safety department. There are also Fire and Police Intern and Reserve programs to again support public safety without costs to the City.

Public Safety Needs

Public safety is a top priority in Fountain Valley and represents over 63% of the City's General Fund. These Public Safety service levels have not changed even after making other significant citywide cuts starting in 2008 through this current fiscal year. However, due to large part to statewide early jail release laws, crime related to residential and commercial burglary and vehicle break-ins has increased by over 64% in Fountain Valley over the last year. Without a continued local funding source the City will be forced to cut public safety services, including gang and drug prevention; neighborhood police patrols; police officer staffing at local schools; and consider reducing firefighting services. The City needs additional funds to continue to provide citywide crime prevention, gang and youth violence prevention and intervention programs and keep police officers in schools to keep kids off the streets and away from gangs and drugs.

Additionally, the City needs funds to maintain firefighters and paramedics levels, and keep rapid 9-1-1 emergency response times so that people suffering from heart attacks, strokes or other

medical emergencies continue to receive the immediate, life-saving care they need.

Local Infrastructure & Vehicle Needs

Over the last few decades the City has used General Fund revenues to help support the maintenance of the communities local streets through a regular street maintenance program and funded park and playground equipment at the City's 17 neighborhood parks. Going forward starting with the 2016-17 Fiscal Year budget none of these vital programs are will be funded. The City also developed the use of Internal Service Funds to track and systematically determine when police & fire apparatus; city vehicles; and equipment need to be replaced. Final determination is made by the Public Works fleet maintenance staff based on maintenance history and related costs. The current structural deficit requires the normal replacement schedule be extended to reduce current costs and the Internal Service Equipment Fund is not being fully funded for 2016-17 Fiscal Year. As a consequence, at the June 7 City Council Meeting approval was given for staff to replace only two of the four police vehicles scheduled for replacement this fiscal year.

Community Engagement and Feedback

City staff has held numerous resident and business group presentations about the City finances. These meetings have been held at local City parks, Senior Center, and City Hall. Copies of the survey has also been sent to each utility customer and included in the Fountain Valley Living Magazine and placed on the City's website. The City has received hundreds of responses to the two separate community surveys asking for feedback on what City services are important to them. The first survey requests prioritizing various vital City services. A second survey has been sent out to solicit more community feedback on their recommendations for City service cuts to reduce costs and/or what revenue enhancement opportunities should be pursued to maintain vital City service levels.

Based on feedback from hundreds of community members the top priorities for Fountain Valley include in priority order:

- Maintaining 911 emergency response times
- Maintain local fire station services
- Maintaining neighborhood police patrols
- Repairing streets, potholes and local parks
- Repairing local storm drain systems
- Protecting anti-gang and anti-drug programs
- Increasing Vietnamese-language training for city police and firefighters
- Creating more local jobs & maintaining business attraction programs

Deficit Reduction Alternatives

The best way to reduce Fountain Valley's structural deficit is through expenditure reductions. However, as was previously mentioned, a large number of cost-cutting efforts have already been implemented. Reductions were made in the 2016-17 budget which will have a long term negative impact on roadways, parks, and other important City wide infrastructure. Staff has sought input from the community about other vital City service reductions including:

- Closing Fire Station #2
- Eliminate Police programs including anti-gang, cadet program, and community crossing guards
- Eliminate recreation and senior programs or increase user fees to recover the full cost of these services without the use of general taxes
- Reduced the number of fire personnel from four to three which will have an impact of the level of care that can be given prior to transportation to local hospital.
- Continue cuts of all General Fund contribution to road, park and playground equipment and reduced the number of police vehicles scheduled for replacement.

Additional cuts will further reduce vital City services to a level that will be unacceptable for our residents and business community based on community feedback of wanting to maintain current service levels.

Revenue Augmentation Alternatives

Staff believes that additional staffing or other operational expense cuts would result in service levels that would not be in the best interest of the residents of Fountain Valley and would impact the quality of life. Feedback from the community also placed a high priority on maintaining vital service levels. Various options to increase revenue have been carefully considered, most require voter consideration. As Staff evaluated the revenue options a commitment was made that the recommended revenue enhancement must:

- Have local control – State cannot touch a penny of any voter approved funds
- Be for local Fountain Valley community needs only
- Maintain local service levels and vital City services
- Create long term fiscal sustainability
- Be funded by both residents and visitors to Fountain Valley
- Not be a specific parcel tax on individual homes or property
- Have community accountability and transparency

On June 14 Staff shared with City Council the following revenue enhancement measures which could be given further consideration. It should be noted the City Council does not have the authority to enact a tax increase, only to place the measure on the ballot for voter consideration.

The most viable option which meets the goals of local control and local use is:

- Establishing a sales tax (transactions and use tax) measure. A one cent increase on sales made in the City of Fountain Valley (per Board of Equalization - excludes food purchased as groceries or prescription medication) would raise approximately \$11.5 million per year. This tax would be a shared tax, as non-residents making purchases in the City would be picking up a share of the cost. This revenue source is protected by the State constitution whereby the State of California cannot take sales tax from local agencies. In order to pass the measure, 50% + 1 of voting residents would need to approve it in an election.

Less viable options or partial solutions:

- Utility User's Tax (UUT). Every 1% in the UUT would provide ongoing revenues of approximately \$850,000. However, closing the current structural deficit and addressing fiscal sustainability would require a 13% UUT. This tax would be paid fully by every property owner in Fountain Valley and would require approval of 50% + 1 of voting residents in an election. There are ten Orange County cities who have a voter approved UUT in place.
- Impose a Parcel Tax. This would be a fixed amount that would be placed on each and every parcel in Fountain Valley. In order to generate the same amount as a 1% sales tax would require an annual assessment of about \$700 per resident. This tax would be paid fully by every Fountain Valley property owner and would require approval of 50% + 1 of voting residents in an election.
- Increasing the Hotel Bed Tax also known as the Transient Occupancy Tax (TOT). With 50% + 1 approval of voters in an election, the TOT rate could be increased from the current 8%. A common rate in neighboring cities is 10% to 14%, and if this increase were approved by the voters, the City would receive additional ongoing revenues of approximately \$140,000 per year for each one percent. However, this is only a partial solution and would not address the structural deficit much less the long term goal of fiscal sustainability. This tax would be paid by visitors to Fountain Valley and there would be no direct impact on residents.
- Other options include a reader board sign; parking meters around Miles Square Park and increasing recreation fees to recover the full cost of youth and senior programs. None of these options meet the goal of the fiscal sustainability plan. Cumulatively they add up to only a fraction of the current structural deficit needs and would still result in severe cuts to public safety and other essential City services.

Recommended Alternative

After carefully assessing all the options and listening to community feedback which overwhelmingly indicated a desire to maintain and restore public safety service levels, it is Staff's belief that the only option that would:

- Maintain vital City services and meet the needs of residents and the business community; and
- Begin to address the General Fund structural deficit; and
- Move the City towards its stated goal of Fiscal Sustainability, which includes cash solvency / budget solvency / long term solvency / service solvency; is a local transaction and use (sales) tax measure.

This additional revenue would accomplish the following for the community:

- Maintain and/or restore vital City services
 - Maintain current level of police protection as well as firefighters and paramedics
 - Add Police officers to address increase crime
 - Recreation programs for youth and seniors
 - Restore funding for maintaining City streets, roadways, park and playground equipment
 - Fund replacement of Fire apparatus
 - Maintain quality public City facilities including Police and Fire stations; recreation and senior centers; City Hall and City Yard
- Payoff or eliminate debt (burn the mortgage) - Address other required obligations
 - Retire two City bonds at earliest call date
 - Set aside in a City controlled trust account amounts to fund the unfunded liability for both pension and OPEB obligations
 - Pay off balance of CAJPIA liability claims due
 - Fund 800 MHz required county wide public safety radio communications upgrade
 - Restore reserves to County adopted policy levels
 - Fund essential public works City facility maintenance needs
- Commitment to Accountability and Transparency
 - Semi-annual review by independent Oversight Committee
 - Including specific information during mid-year financial review and annual budget process
 - Annual Report to City Council
 - Accountability report posted on City Website

There are a number of reasons why the sales tax measure is a preferred option to any other voter-approved revenue alternative, including:

- Local control for vital Fountain Valley community service needs
- Costs would be shared by residents, businesses and visitors to Fountain Valley who purchase certain taxable goods and products
- The measure would not be applicable to certain indispensable items such as groceries and medicine
- The measure would ensure the funds cannot be taken by Sacramento and they would stay in Fountain Valley (Protected by Proposition 1A – 2004 & Proposition 22 – 2010)
- Is not a parcel tax on homes or property
- The measure would require independent annual audits and be subject to review by an Oversight committee
- The goal to pay off the debt and unfunded liabilities and help maintain vital City services could be accomplished with this measure in place.

As such, staff recommends City Council approve Resolutions calling for the placement of a general tax measure on the ballot of the November 8, 2016 election to adopt a transactions and use tax and authorizing guidelines regarding the measure for voter consideration for a period not to exceed twenty years.

Ballot Measure

Approval of the recommended action would place the one cent (1%) sales tax measure on the November 8, 2016 ballot not to exceed twenty years. The City Clerk would file a certified copy of the resolution with the Board of Supervisors of Orange County and the Registrar of Voters of Orange County on or before August 12, 2016. Passage of the measure would require 50% + 1 approval of the voters in the City of Fountain Valley.

FISCAL IMPACT:

The City would have the opportunity to maintain firefighters and paramedics as well as its current level of police protection and other essential City services including senior and youth programs. The City would be available to fund street, roadway, parks and playground equipment maintenance and repairs. This measure would address the City's current structural deficit and the ability to return reserves levels to adopted policy levels and eliminate bond debt and set-aside funds for pension and OPEB unfunded liabilities.

ENVIRONMENTAL IMPACT:

Not applicable.

LEGAL REVIEW:

This staff report and attachments have been reviewed by the Attorney for the City.

PUBLIC NOTIFICATIONS

Notification was made through the regular agenda process.

ALTERNATIVES:

Alternative #1

The City Council will proceed with the adoption of resolutions related to placing a one cent (1%) sales tax (transaction & use tax) measure on the November 8, 2016 ballot for voter consideration.

Alternative #2

The City Council will not proceed with adoption of resolutions related to placing a one cent (1%) sales tax (transaction and use tax) measure on the November 8, 2016 ballot for voter consideration. However, such action will impair the City's ability to operate or provide vital City services in the immediate future.

RECOMMENDATION:

It is recommended that the City Council taking the following action:

1. Declare that this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly;
2. Adopt Resolution calling for the placement of a general tax measure on the ballot of the November 8, 2016 election to adopt a transactions and use tax;
3. Adopt Resolution adding a general tax measure to the already called November 8, 2016 General Municipal Election;

Request for Council Action, Placement of a One Cent (1%) Sales Tax (Transactions and Use)
Measure on the November 8, 2016 General Election Ballot for Voter Consideration
July 19, 2016
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Prepared By: David D. Cain, Director of Finance/Treasurer

Procurement Review by: Cathy Wagner, Purchasing Manager

Fiscal Review by: David D. Cain, Director of Finance/Treasurer

Legal Review by: Colin Burns, Attorney for the City

Approved By: Bob Hall, City Manager

Attachments:

Attachment 1: Resolution calling for the placement of a general tax measure on the ballot of the November 8, 2016 election to adopt a transactions and use tax

Exhibit A: Ordinance and Attachment A – Municipal Code Section 3.05

Attachment 2: Resolution calling for adding a general tax measure to the already called November 8, 2016 General Municipal Election

Exhibit A: Ordinance and Attachment A – Municipal Code Section 3.05

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FOUNTAIN VALLEY, CALIFORNIA, CALLING FOR THE PLACEMENT OF A GENERAL TAX MEASURE ON THE BALLOT OF THE NOVEMBER 8, 2016 ELECTION TO ADOPT A TRANSACTIONS AND USE TAX, AND REQUESTING THAT THE ORANGE COUNTY BOARD OF SUPERVISORS CONSOLIDATE THIS ELECTION WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON NOVEMBER 8, 2016

WHEREAS, due to Sacramento takeaways, Fountain Valley has lost almost \$116 million in local tax dollars, is continuing to lose another \$3 million every year, and now faces a \$1.764 million structural budget deficit; and

WHEREAS, a guaranteed source of funding for local services that cannot be taken by Sacramento requires that our tax dollars are spent locally for Fountain Valley residents; and

WHEREAS, public safety is a top priority in Fountain Valley and represents over 63% of the City's General Fund budget, and without additional revenue the City will be forced to significantly cut public safety services, including gang and drug prevention; neighborhood police patrols; police officer staffing at local schools; and consider reducing firefighting or paramedic services; senior and youth community programs; and

WHEREAS, the City seeks to maintain firefighters and paramedics, and keep rapid 9-1-1 emergency response times low so that people suffering from heart attacks, strokes or other medical emergencies continue to receive the immediate, life-saving care they need; and

WHEREAS, this measure helps to maintain funding for local streets, roadways and park and playground equipment maintenance and repair; and

WHEREAS, among other priorities the City will to continue to provide gang and youth violence prevention and intervention programs and keep police officers in schools to keep kids off the streets, out of trouble and away from gangs and drugs, maintain vital senior and youth programs and community events; and

WHEREAS, we need to do more to stimulate local economic growth and create more good-paying local jobs for residents, and additional funds will help Fountain Valley remain attractive to businesses, visitors and homebuyers by fixing blight and filling vacant storefronts with new businesses, strengthening local property values; and

WHEREAS, additional revenue will allow the City to repair local storm drain systems to prevent flooding, and to maintain safety, help to repair streets and potholes; and

WHEREAS, sales tax not charged on food purchased as groceries or prescription medication, limiting its impact on Fountain Valley residents; and

WHEREAS the proposed measure includes tough fiscal accountability and transparency, including requiring annual independent financial audits, oversight committee and publishing the entire City budget online to make sure the City accounts for every dollar it spends; and

WHEREAS, the City of Fountain Valley ("City") holds the authority to levy a Transactions and Use Tax for general purposes pursuant to California Revenue and Taxation Code section 7285.9, subject to approval by a majority vote of the electorate pursuant to Article XIII C, Section 2 of the California Constitution ("Proposition 218"); and

WHEREAS, the City Council would like to submit to the voters a measure introducing a Transactions and Use Tax ("Sales Tax") of one cent (1%) on the sale of all tangible personal property sold at retail in the City; and

WHEREAS, the City Council plans to adopt an Ordinance to add Chapter 3.05 to the City's Municipal Code, thereby imposing a Sales Tax of one cent (1%); and

WHEREAS, the Sales Tax is a general tax, the revenue of which will be placed in the City's general fund and will be used to pay for essential City services; and

WHEREAS, like many other cities, the City has been undergoing a financial crisis due to the economic downturn, takeaways by the state and decreasing revenues; and

WHEREAS, the City has made significant cuts to the budget, including cuts to public City services; and

WHEREAS, the City has evaluated the impacts of decreased general fund revenues on the City's ability to provide vital services to the public, including evaluation and implementation of measures to reduce costs, as well as measures to increase revenue; and

WHEREAS, Fountain Valley voters should decide whether they are interested in a locally-approved voter funding source to help City residents and provide for public safety services such as 9-1-1 emergency response, neighborhood police patrols, police, fire protection services/firefighters, and gang/youth violence prevention programs; and

WHEREAS, without additional revenue, the City will face serious financial shortfalls and be required to reduce essential municipal services, which will endanger the health, safety and general welfare of the City and its residents and, as such, adequate funding for City services must be identified at existing levels for the health, safety and general welfare of the residents of the City; and

WHEREAS, pursuant to Proposition 218 any general tax measure submitted to the voters must be consolidated with a regularly scheduled general election for members of the City Council; and

WHEREAS, the next regularly scheduled general election at which City Council members are to be elected is November 8, 2016; and

WHEREAS, pursuant to the Government Code Section 53724 ("Proposition 62") and Revenue and Taxation Code Section 7285.9, a two-thirds (2/3) vote of the City Council is required to place the Measure on the November 8, 2016 ballot.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FOUNTAIN VALLEY, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The foregoing recitals are true and correct and are hereby incorporated and made an operative part of this Resolution.

SECTION 2. Pursuant to Government Code Section 53724, Revenue and Taxation Code, Section 7285.9 and any other applicable requirements of the laws of the State of California relating to general law cities, the City Council, by a two-thirds (2/3) supermajority vote, hereby calls and orders to be held in the City of Fountain Valley on Tuesday, November 8, 2016, a General Municipal Election for the purpose of submitting the ballot measure ordinance attached hereto as Exhibit "A" and incorporated herein by this reference to the qualified electors, and hereby approves said ordinance.

SECTION 3. The City Council, pursuant to Elections Code Section 9222, hereby orders that the following question be submitted to the qualified electors of the City of Fountain Valley at the election to be held on November 8, 2016:

| | |
|---|------------|
| Fountain Valley 911 Response Police - Fire / Essential City Services Measure To maintain 911 emergency response times, fire stations, police officers/firefighters/paramedics, anti-gang/drug programs, after school, senior programs; upgrade first responder disaster communication; repair stormwater systems to prevent flooding, streets / potholes / parks ; other general city services, shall the City of Fountain Valley establish a one-cent sales tax providing \$11.5 million annually for twenty year term, requiring public disclosure of expenditures, independent audits, all funds only for Fountain Valley. | YES |
| | NO |

SECTION 4. The City Clerk is hereby directed to transmit a copy of the measure set forth in Section 3 above to the City Attorney, who shall prepare an impartial analysis of the measure in accordance with Section 9280 of the Elections Code. The impartial analysis shall include a statement indicating whether the measure was placed on the ballot by a petition signed by the requisite number of voters or by the City Council. In the event the entire text of the measure is not printed on the ballot, or in the voter information portion

of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-font type, the following: "The above statement is an impartial analysis of Ordinance or Measure. If you desire a copy of the ordinance or measure, please call the election official's office at (714) 593-4410 and a copy will be mailed at no cost to you." In addition, the City Clerk is directed to fix a deadline for submission of arguments and rebuttals for or against the measure pursuant to Sections 9223 and 9285 of the Elections Code, the provisions of which are hereby adopted by the City Council.

SECTION 5. The City Council requests that the Board of Supervisors of Orange County consolidate the election on the proposed measure with the established statewide election to be held the same day and the Registrar of Voters of Orange County conduct the election in the manner provided by law. Pursuant to Election Code Section 10400 et seq., the City Clerk is directed to file a certified copy of this Resolution with the Board of Supervisors of Orange County and the Registrar of Voters of Orange County on or before August 12, 2016.

SECTION 6. In all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 7. Notice of the time and place of the election is hereby given. Additionally, the City Clerk is authorized, instructed and directed to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

SECTION 8. The Director of Finance/City Treasurer is hereby authorized and directed to appropriate the necessary funds to pay for the City's cost of placing the ballot measure on the election ballot.

SECTION 9. The City Council finds that this Resolution is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 10. Severability. The provisions of this Resolution are severable and if any provision of this Resolution is held invalid, that provision shall be severed from the Resolution and the remainder of this Resolution shall continue in full force and effect, and not be affected by such invalidity.

SECTION 11. The City Clerk shall fix and determine a date for submission of arguments for or against said Measure, and said date shall be posted in the Office of the City Clerk. Arguments for and against said Measure may be filed in accordance with applicable provisions of law. The Council does not authorize the Council as a body or individual member of Council to file a written argument or any rebuttal argument for or against the Measure.

SECTION 12. This Resolution shall become effective upon its adoption.

SECTION 13. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 19th day of July, 2016, by the following vote:

Cheryl Brothers, MAYOR

ATTEST:

Rick Miller, City Clerk Administrator

APPROVED AS TO FORM:



Colin Burns
Attorney For The City

{State of California}
{County of Orange}

I, Rick Miller, City Clerk of the City of Fountain Valley, California DO HEREBY CERTIFY that the foregoing Resolution, being Resolution No. , was duly passed and adopted by the City Council of the City of Fountain Valley at a regular meeting held on July 19, 2016, by the following roll call vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I hereby set my hand and affixed seal of the City of Fountain Valley this 19th day of July, 2016

Rick Miller, City Clerk Administrator

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FOUNTAIN VALLEY, CALIFORNIA, ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY OF A CERTAIN MEASURE RELATING TO GENERAL TAX MEASURE TO ADOPT A TRANSACTIONS AND USE TAX AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2016, AS CALLED BY RESOLUTION NO. 9556 AND CONSOLIDATED WITH THE COUNTY OF ORANGE BY RESOLUTION NO. 9557

WHEREAS, a General Municipal Election on Tuesday, November 8, 2016 has been called by Resolution No. 9556 and consolidated with the County of Orange by Resolution No. 9557 both adopted on June 7, 2016; and

WHEREAS, the City Council also desires to submit to the voters at the election a question relating to a general tax measure to adopt a transactions and use tax.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FOUNTAIN VALLEY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1: That the City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election the following question:

| | |
|--|------------|
| Fountain Valley 911 Response Police - Fire / Essential City Services Measure To maintain 911 emergency response times, fire stations, police officers/firefighters/paramedics, anti-gang/drug programs, after school, senior programs; upgrade first responder disaster communication; repair stormwater systems to prevent flooding, streets / potholes / parks; other general city services, shall the City of Fountain Valley establish a one cent sales tax providing \$11.5 million annually for twenty year term, requiring public disclosure of expenditures, independent audits, all funds only for Fountain Valley. | YES |
| | NO |

SECTION 2: That the proposed ordinance submitted to the voters is attached as Exhibit "A".

SECTION 3: That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 4: That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the

election, in time, form and manner as required by law.

SECTION 5: That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED this 19th day of July, 2016, by the following vote:

Cheryl Brothers, MAYOR

ATTEST:

Rick Miller, City Clerk Administrator

APPROVED AS TO FORM:



Colin Burns
Attorney For The City

{State of California}
{County of Orange}

I, Rick Miller, City Clerk of the City of Fountain Valley, California DO HEREBY CERTIFY that the foregoing Resolution, being Resolution No. , was duly passed and adopted by the City Council of the City of Fountain Valley at a regular meeting held on July 19, 2016, by the following roll call vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I hereby set my hand and affixed seal of the City of Fountain Valley this 19th day of July, 2016

Rick Miller, City Clerk Administrator

Attachment "A"

Chapter 3.05- Transactions and Use Tax

Sections:

- 3.05.010 - Purpose.**
- 3.05.020 - Contract With State.**
- 3.05.030 - Transactions Tax Rate.**
- 3.05.040 - Place of Sale.**
- 3.05.050 - Use Tax Rate.**
- 3.05.060 - Adoption of Provisions of State Law.**
- 3.05.070 - Limitations on Adoption of State Law and Collection of Use Taxes.**
- 3.05.080 - Permit Not Required.**
- 3.05.090 - Exemptions and Exclusions.**
- 3.05.100 - Amendments.**
- 3.05.110 - Enjoining Collection Forbidden.**
- 3.05.115 - Severability.**
- 3.05.120 - Effective Date.**
- 3.05.125 - Termination Date.**

Sections:

3.05.010 – Purpose.

This ordinance is adopted by the City of Fountain Valley (hereafter "City") to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

3.05.020 - Contract With State.

Prior to the operative date, the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

3.05.030 - Transactions Tax Rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of one percent (1%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

3.05.040 - Place of Sale.

For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

3.05.050 - Use Tax Rate.

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of one percent (1%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

3.05.060 - Adoption of Provisions of State Law.

Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

3.05.070 - Limitations on Adoption of State Law and Collection of Use Taxes.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, Victims Compensation and Government Claims Board, State Board of Equalization, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Ordinance.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

3.05.080 - Permit not Required.

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

3.05.090 - Exemptions and Exclusions.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

- a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

- b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such

property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

3.05.100 - Amendments.

All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

3.05.110 - Enjoining Collection Forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

3.05.115 – Severability.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

3.05.120 – Effective Date.

This ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately.

3.05.125 – Termination Date.

The authority to levy the tax imposed by this ordinance shall expire 20 years from the "Operative Date" of this ordinance.

ORDINANCE NO. _____

AN ORDINANCE OF THE PEOPLE OF THE CITY OF FOUNTAIN VALLEY, CALIFORNIA, ADDING CHAPTER 3.05 TO THE FOUNTAIN VALLEY MUNICIPAL CODE TO IMPOSE A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION

WHEREAS, due to Sacramento takeaways, Fountain Valley has lost almost \$116 million in local tax dollars, is continuing to lose another \$3 million every year, and now faces a \$1.764 million structural budget deficit; and

WHEREAS, a guaranteed source of funding for local services that cannot be taken by Sacramento requires that our tax dollars are spent locally for Fountain Valley residents; and

WHEREAS, public safety is a top priority in Fountain Valley and represents over 63% of the City's General Fund budget, and without additional revenue the City will be forced to significantly cut public safety services, including gang and drug prevention; neighborhood police patrols; police officer staffing at local schools; and consider reducing firefighting services; senior and youth community programs; and

WHEREAS, the City desires to maintain firefighters and paramedics, and keep rapid 9-1-1 emergency and low response times so that people suffering from heart attacks, strokes or other medical emergencies continue to receive the immediate, life-saving care they need; and

WHEREAS, this measure helps to maintain funding for local streets, roadways and park and playground equipment maintenance and repair; and

WHEREAS, among other priorities the City seeks to continue to provide gang and youth violence prevention and intervention programs and keep police officers in schools to keep kids off the streets, out of trouble and away from gangs and drugs; maintain vital senior and youth programs and community events; and

WHEREAS, we need to do more to stimulate local economic growth and create more good-paying local jobs for residents, and additional funds will help Fountain Valley remain attractive to businesses, visitors and homebuyers by fixing blight and filling vacant storefronts with new businesses, strengthening local property values; and

WHEREAS, additional revenue will allow the City to repair local storm drain systems to prevent flooding; to maintain safety; and help to repair streets and potholes; and

WHEREAS, sales taxes are not charged on food purchased as groceries or prescription medication, limiting its impact on Fountain Valley residents; and

WHEREAS, the proposed measure includes tough fiscal accountability and transparency,

including requiring annual independent financial audits, oversight committee and publishing the entire City budget online to make sure the City accounts for every dollar it spends; and

WHEREAS, pursuant to California Revenue and Taxation Code Section 7285.9 the City of Fountain Valley ("City") has the authority to levy a Transactions and Use Tax for general purposes; and

WHEREAS, the people of the City desire to levy a one percent (1%) Transactions and Use Tax for general purposes to fund essential City services, including public safety services; and

WHEREAS, the people of the City believe that only a locally-approved voter funding source would guarantee that new revenue stays in Fountain Valley to help the City provide essential services to its residents; and

WHEREAS, the City's Transactions and Use Tax Ordinance is necessary to protect the public's health, safety, and welfare and will be added to the Fountain Valley Municipal Code as Chapter 3.05; and

NOW, THEREFORE, THE PEOPLE OF THE CITY OF FOUNTAIN VALLEY DO HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Title. This ordinance shall be known as the Fountain Valley Transactions and Use Tax Ordinance, the text of which is set forth in Attachment A, attached hereto.

SECTION 2. Operative Date. "Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

SECTION 3. Approval by the Voters. Pursuant to California Elections Code section 9217, this Ordinance shall take effect only if approved by a majority of the eligible voters of the City of Fountain Valley voting at the Regular Election of November 8, 2016, and shall take effect ten (10) days after the City Council has certified the results of that election by resolution.

SECTION 4. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

I hereby certify that the Fountain Valley Transactions and Use Tax Ordinance was **PASSED, APPROVED, AND ADOPTED** by the people of the City of Fountain Valley on this _____ day of _____, 2016.

Cheryl Brothers, MAYOR

ATTEST:

Rick Miller, City Clerk Administrator

APPROVED AS TO FORM:



Colin Burns
Attorney For The City